

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bydalek, et al.
Serial No. : 10/712, 611
Filed : November 13, 2003
For : **FASTENER ASSEMBLY**
Art Unit : 3677
Examiner : **JEFFREY ANDREW SHARP**

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Mail Stop Appeal Brief - Patents
Commissioner for Patents
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APPEAL BRIEF

Dear Sir or Madam:

This Appeal Brief is submitted in accordance with 37 C.F.R. § 41.37 in support of an Appeal from a Final Office Action rejecting Claims 48-63 and 67-69. The period to submit the Appeal Brief is set to expire on October 17, 2007. A petition for a 5-MONTH extension of time is concomitantly submitted herewith, thereby extending the expiration date to March 17, 2008.

Attached herewith is a modified Fee Transmittal form (PTO/SB/17) authorizing the PTO to deduct \$500.00 under 37 C.F.R. § 41.20(b)(2) for filing an Appeal Brief. Applicants believe no further fees are due; however, the Commissioner is authorized to charge any required fees or credit any overpayment to Deposit Account No. 502318.

I. REAL PARTY IN INTEREST

The real party in interest in this Application is the MacLean-Fogg Company, the assignee all right, title, and interest in and to the above-identified Application pursuant to an assignment executed on November 13, 2003. The MacLean-Fogg Company is a limited liability company of Delaware having a principal place of business at 1000 Allanson Road, Mundelein, Illinois 60060.

II. RELATED APPEALS AND INTREFERENCES

Currently, there are no other pending Appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1-47 and 64-66 have been canceled. Claims 48-63 and 67-69 are currently pending.

IV. STATUS OF AMENDMENTS

A Final Office Action was mailed on May 17, 2007. No further Amendments were submitted subsequent to the Final Office Action. A Notice of Appeal was filed on August 17, 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to fastening assemblies. In one embodiment, the fastener assembly includes a body (62). The body (62) includes a torque transmitter (66), a thread (64), a retaining surface (59) and a notch (71) See Bydalek, Pg. 5, ll. 23-29. The notch (71) is positioned on the retaining surface (59) and located at one end of the body (62). See Bydalek, Pg. 5, ll. 30-31. The fastener assembly further includes a cap (53). See Bydalek, Pg. 6, ll. 17. The cap (53) includes an inner surface (81) that retains the cap (53) on the body (62) through an interference fit with the notch (71). See Bydalek, Pg. 11, ll. 25-30.

In one embodiment, the notch (71) is right handed. See Bydalek, Pg. 6, ll. 1-3. In an alternative embodiment, the right hand notch (71) has an angle of between 30 and 60 degrees. See Bydalek, Pg. 6, ll. 1-3. In yet another embodiment, the right hand notch (71) is at a 45 degree angle. See Bydalek, Pg. 6, ll. 1-3. In one embodiment, the notch (71) is left

handed. See Bydalek, Pg. 6, ll. 3-5. In an alternative embodiment, the left hand notch (71) is at an angle of between 30 and 60 degrees. See Bydalek, Pg. 6, ll. 3-5. In yet another embodiment, the left hand notch (71) is at a 45 degree angle. See Bydalek, Pg. 6, ll. 3-5. In one embodiment, the fastener assembly includes a washer (54). See Bydalek, Pg. 6, ll. 23-25. In one embodiment the body (62) is a nut. In yet another embodiment, the retaining surface (59) includes a second surface (23) that is generally cylindrical. See Bydalek, Pg. 6, ll. 23.

In one embodiment, the fastener assembly includes a body (62) with a torque transmitter (66) and an annular bearing surface that is spherically convex in shape. See Bydalek, Pg. 7, ll. 22-28. The torque transmitter (66) is generally hexagonal in shape and provided with a groove. See Bydalek, Pg. 5, ll. 25-26. The groove, at least in part, retains a cap (53) on the body (62). See Bydalek, Pg. 6, ll. 16-20. The cap (53) includes a stainless steel material and is shaped according to the grooved body. See Bydalek, Pg. 10, ll. 11-14.

In one embodiment, the annular bearing surface is located adjacent to a generally cylindrical surface. In another embodiment, the groove includes a curved surface.

In one embodiment, the fastener assembly includes a body (62) having a torque transmitter (66) and an annular bearing surface that is spherically convex in shape. See Bydalek, Pg. 7, ll. 22-28. The torque transmitter (66) includes a groove that, at least in part, retains a cap (53) on the body (62). See Bydalek, Pg. 6, ll. 16-20. The cap includes a stainless steel material and is shaped according to the grooved body so that when the body is torque an interference fit is achieved between the cap and the body. See Bydalek, Pg. 10, ll. 11-14.

In one embodiment, the annular bearing surface is located adjacent to a generally cylindrical surface. In another embodiment, the groove includes a curved surface.

In one embodiment, the fastener assembly includes a body (62) having a torque transmitter (66) and an annular bearing surface that is spherically convex in shape. See Bydalek, Pg. 7, ll. 22-28. The torque transmitter is generally hexagonal in shape and provided with a groove. See Bydalek, Pg. 6, ll. 16-20. The groove, at least in part, retains a

cap on the body. See Bydalek, Pg. 6, ll. 16-20. The cap includes a stainless steel material and is shaped, at least in part, to fit within the groove on the body. See Bydalek, Pg. 10, ll. 11-14.

In one embodiment, the annular bearing surface is located adjacent to a generally cylindrical surface. In another embodiment, the groove includes a curved surface.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether Claims 58-63 are patentable under 35 U.S.C. § 103(a) over U.S. Patent No. 4,143,578 to Becker (hereinafter referred to as "Becker") in view of U.S. Patent No. 1,940,675 to Crowther (hereinafter referred to as "Crowther") or U.S. Patent No. 4,240,670 to Zorn et al (hereinafter referred to as "Zorn") or GB 2051285 A to Jones (hereinafter referred to as "Jones").
- B. Whether Claims 49-54 are indefinite under 35 U.S.C. § 112 second paragraph.
- C. Whether Claims 48-54, 56, and 57 are patentable under 35 U.S.C. § 102(b) over Jones.
- D. Whether Claims 58, 60, 62, and 67-69 are patentable under 35 U.S.C. § 102(b) in view of GB 618388 to Elastic Stop Nut Corp. (hereinafter referred to as "Elastic Stop Nut").

VII. GROUPING OF CLAIMS

Claims 58-63 are grouped for rejection under 35 U.S.C. § 103(a) as being unpatentable over Becker in view of anyone of Crowther, Zorn, or Jones. Claims 49-54 are grouped together as being rejected under 35 U.S.C. § 112. Claims 48-54, 56, and 57 are grouped for rejection under 35 U.S.C. § 102(b) as anticipated by Jones. Claims 58, 60, 62, and 67-69 are grouped for rejection under 35 U.S.C. § 103(a) as being unpatentable in view of Elastic Stop Nut.

VIII. ARGUMENT

- A. **Claims 58-63 are patentable over Becker in view of Crowther, Zorn, or Jones.**

Claims 58-63 stand rejected under 35 U.S.C. § 103(a). The Examiner alleged that Claims 58-63 were obvious under 35 U.S.C. § 103(a) in view of Becker to any one of:

Crowther; Zorn; or Jones. Applicants respectfully disagree and request that the Examiner's rejection be withdrawn.

Applicants submit that the Examiner has not established a *prima facie* obviousness case. The Examiner simply pieced together references to combine and formulate the present invention.

References must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. See M.P.E.P. § 2141 (citing *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986)). Here the rejection by the Examiner amounts to mere "hindsight" by the Examiner. Accordingly, the Examiner has not established a *prima facie* obviousness case.

"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01 (Citing *In re mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). If the "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." M.P.E.P. § 2143.01. Similarly, "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teaching of the references are not sufficient to render the claims *prima facie* obvious." M.P.E.P. § 2143.01. When evaluating whether one or more prior art references suggests or teaches all the claim limitations, each prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. M.P.E.P. § 2141.02.

There must be a reasonable expectation of success to modify or combine the prior art to reject claims as *prima facie* obvious. See M.P.E.P. § 2143.02 (citing *In re Merck & Co., Inc.*, 800F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

A prior art reference may be considered to teach away when 'a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.' In *re Gurley*, 27 F.3d 551, 31 USPQ2d 1130 (Fed. Cir. 1994). That the inventor achieved the claimed invention by doing what those skilled in the art suggested should not be done is a fact strongly probative of non-obviousness. *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986) on reharing, 231 USQP 160 (Fed. Cir. 1986).

Becker in view of Zorn

The Examiner alleges Claims 58-63 are unpatentable over the proposed combination of Becker and Zorn. Applicants respectfully point out that there is no teaching suggestion or motivation to combine these references. Further, the Examiner's proposed combination of Becker and Zorn teach away from each other. The entire point of the nut in Becker is to secure wheels *without* wheel covers. According to Becker "covers are expensive, add weight to the car and often become lost due to failure, under the extreme stresses imposed by high speed and rapid maneuvering of the vehicle, of the means employed to attach the covers to the wheels." Becker, Col. 1, ll. 24-28. Though the purpose of Becker is to eliminate the use of a wheel cover, the purpose of the lug nut in Zorn is to secure a wheel cover to a wheel for decorative purposes, as well as, to protect the wheel hub from accumulation of particles, debris, dirt, and dust. See Zorn, Col. 1, ll. 16-19. Accordingly, Becker teaches away from the use of a wheel cover, whereas, the lug nut in Zorn is designed to retain a wheel cover. Therefore, Becker and Zorn teach away from each other. For at least this reason, the obviousness rejection must fail.

Further, the Examiner's proposed combination of Becker and Zorn would change the principle of operation of each reference. Becker discloses "a groove configured to form a substantially right angled shoulder axially terminating the polygonal side walls." Becker, Col. 2, ll. 50-53. On the other hand, Zorn discloses a tapered 48 lug nut 16 used to secure a wheel cover 22 by way of two different apertures (24 and 26). See Zorn, Col. 3, ll. 45-55. Because the purpose of the wheel cover in Zorn is to cover an unfinished wheel and protect the wheel hub, the wheel cover covers as much area as possible. Aperture 26 can not be so large in diameter that it defeats this purpose. Conversely, aperture 24 must be sized to allow

the lug nut to seat against the wheel, while still providing a sufficient area for the lug nut to retain the wheel cover. Accordingly, Zorn requires proper dimensions to be maintained between apertures 24 and 26. See Zorn, Col. 4, ll. 33-35. The lug nut in Zorn must have a maximum diameter, disclosed as point 49, which enables the lug nut to pass through aperture 26 and yet seat against aperture 24. The combination of Becker and Zorn would not allow the lug nut to pass through aperture 26 and yet seat against aperture 24 because the groove in Becker would prevent the lug nut from passing through aperture 26. Consequently, the Examiner's combination would change the principle of operation of the respective references. For at least this reason, the obviousness rejection must fail.

Further, The Examiner's proposed combination of Becker and Zorn would change a second principle of operation of each references. The purpose of the groove in Becker is to provide a substantially flat surface for the cap to be crimped. See Becker, Col.2, ll. 59-63. On the other hand, Zorn discloses a tapered 48 lung nut 16 with a maximum diameter at point 49 and a resilient washer 52. See Zorn, Col. 2, ll. 3-5. According to Zorn, when the lug nut is torqued the resilient washer expands radially. See Zorn, Col. 2, ll. 21-26. The resilient washer secures the wheel cover against the vehicle wheel without an interference fit. See Zorn, Col. 2, ll. 21-26. The flat surface in Becker would not cause the resilient washer to expand radially. Therefore, the groove in Becker would prevent the seating of the wheel cover without an interference fit. Consequently, the Examiner's combination would change the principle of operation of the respective references. For at least these reasons, Applicants respectfully request the Examiner's rejections be withdrawn.

Becker in view of Crowther

The Examiner alleges Claims 58-63 are unpatentable over the combination of Becker and Crowther. Applicants submit that there is no teaching suggestion or motivation to combine these references. Further, the Examiner's proposed combination of Becker and Crowther would change the principle of operation of the respective references. Becker discloses "a groove configured to form a substantially right angled shoulder axially terminating the polygonal side walls." Becker, Col. 2, ll. 50-53. Becker further discloses the lip of the cup shape cap is crimped over the groove forming triangular configurations 42. See Becker, Col. 2, ll. 59-63. The triangular configurations 42 do not form a flat surface. See

Becker, Col. 4, ll. 53-65. On the other hand, Crowther discloses a helical resilient washer 8 with a radial face 9 in contact with the flat radial face 10 of the nut body. See Crowther, Col. 2, ll. 29-33. One object of Crowther is to “provide a positive lock between the constrained surfaces and the constraining surface in such a manner that the relationship between the surfaces will not be destroyed by shock or vibration.” Crowther, Col. 1, ll. 44-49. The Examiner’s proposed combination of Becker and Crowther would not allow the required relationship between the constrained surface and the constraining surface because the “crimped lip” and “triangular configurations” in Becker would not provide the necessary flat radial face 10 as required in Crowther. Accordingly, the relationship between the constrained surface and the constraining surface would be destroyed by shock or vibration. For at least this reason, the obviousness rejection must fail.

Further, the Examiner’s proposed combination of Becker and Crowther would not arrive at all of the claim limitations of Claims 58-63. As admitted by the Examiner, Becker fails to disclose the annular bearing surface generally spherically convex in shape. Instead, Becker discloses a bearing surface that is generally frustum in shape. The defect in Becker cannot be cured by Crowther because Crowther does not disclose an annular bearing surface that is spherically generally convex. One skilled in the art recognizes that the bearing surface in Crowther is a frustum shaped bearing surface. Frustum is shaped as “the part that is left when a cone or pyramid is cut by a plane parallel to the base and the apical part is removed. (<http://dictionary.reference.com/browse/frustum>). An annular bearing surface that is spherically convex in shape has a different meaning, namely, “curving out or bulging outward.” ([http://en.wikipedia.org/wiki/Conical surface](http://en.wikipedia.org/wiki/Conical_surface)). Assuming *arguendo*, that Becker is combined with Crowther, the combination would not include an annular bearing surface that is spherically convex. For at least this reason, the Examiner’s combination does not disclose or suggest all claim limitations. Accordingly, the obviousness rejection must fail.

Further, the Examiner’s proposed combination of Becker and Crowther teach away from each other. The groove in Becker enables the cap to be crimped to the body by-way-of a lip that forms triangular configurations. See Becker, Col. 2, ll. 59-63. According to Becker, the triangular configurations are depressed below the level the adjacent lateral sides. See Becker, Col. 4, ll. 50-65. Although the purpose of Becker is to crimp the cap, thereby

forming a surface that is not flat, the purpose in Crowther is to provide a flat radial face 10. According to Crowther, the flat radial face 10 is in contact with the radial face 9 of the helical resilient washer 8. See Crowther, Col. 2, ll. 29-33. The triangular configurations in Becker are designed to prevent rotation, whereas, in any nut and washer application, the nut must rotate against the washer. Therefore, Becker and Crowther teach away from each other. For at least these reasons, Applicants respectfully request the Examiner withdraw the rejections.

Becker in view of Jones

The Examiner's proposed combination of Becker and Jones would change the principle of operation of the respective references. Becker discloses "a groove configured to form a substantially right angled shoulder axially terminating the polygonal side walls." Becker, Col. 2, ll. 50-53. Becker further discloses the lip of the cup shape cap is crimped over the groove forming triangular configurations 42. See Becker, Col. 2, ll. 59-63. The triangular configurations do not form a flat surface. See Becker, Col. 4, ll. 53-65. On the other hand, Jones discloses a washer 12 in operation with a nut 11. See Jones, Col. 1, ll. 64-Col. 2, ll. 65. Accordingly, the Examiner's proposed combination of Becker and Jones would interfere with the operation of the washer because the "crimped lip" and "triangle configurations" in Becker would not provide the necessary flat radial surface required and would interfere with the operation of the washer 12. For at least this reason, Applicants respectfully request the Examiner's rejection be withdrawn.

For at least these reasons, Applicants respectfully submit that the claimed invention is non-obvious and request that the 35 U.S.C. § 103(a) rejection be withdrawn.

B. Claims 49-54 are not indefinite under 35 U.S.C. § 112 second paragraph.

The Examiner rejected Claims 49-54 under 35 U.S.C. § 112. The Examiner alleged that "Claims 49-54 were indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants respectfully disagree and request that the Examiner's rejection be withdrawn.

According to the M.P.E.P., whether the claims particularly point out and distinctly define the metes and bounds of the subject matter is an objective requirement. See M.P.E.P. § 2171. The test is “whether the claim is definite – i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary skill in the pertinent art.” M.P.E.P. § 2171.

Applicants submit that a hypothetical person possessing the ordinary skill in the wheel nut art would have a bachelors of science in engineering or the equivalent practical experience in the wheel nut industry. Upon reading the Applicants’ disclosure, such a person would readily understand the metes and bounds of Claims 49-54.

Applicants respectfully point out that the specification states: “as depicted in FIGURE 21, the notches 71 are at an angle 100 with respect to the axis of the nut body depicted as imaginary line A. Angle 100 ranges from 30° to 60°, preferably 45°.” Bydalek, Pg. 7, ll. 10-12. Further, the Specification states: “In the preferred embodiment, the knurling tool is configured to impress a ‘right hand’ notch 71 at an angle ranging between 30 to 60 degrees, preferably 45 degrees. In an alternative embodiment, a ‘left hand’ notch 71 at similar angles may be fabricated without departing from the scope of the present invention.” Bydalek, Pg. 6, ll. 1-5.

Clearly, one of ordinary skill in the art, upon reading Applicants’ disclosure (including Figure 21), would readily understand the metes and bounds of Claims 49-54. Specifically, one of ordinary skill in the art would understand the “left hand notch” and the “right hand,” as well as their corresponding angles. As such, Applicants request that the Examiner’s 35 U.S.C. § 112 rejection be withdrawn.

C. Jones does not teach a cap as recited in independent Claim 48, and, accordingly, for at least this reason, the 35 U.S.C. § 102(b) rejection of Claims 48-54, 56, and 57 should be withdrawn.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention. M.P.E.P. § 706.02. A claim is anticipated only if each and every element

as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

“During examination, the claims must be interpreted as broadly as their terms reasonably allow.” M.P.E.P. § 2111.01 (citing *In re American Academy of Science Tech Center*, ___ F.3d ___, 2004 WL 1067528 (Fed. Cir. May 13, 2004)). Interpreting claims as broadly as they reasonably allow requires “that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. M.P.E.P. § 2111.01 (citing *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). “Plain meaning refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art.” M.P.E.P. § 2111.01..

Turning now to Claim 48, these claims are allowable because Jones does not disclose expressly or inherently all the elements recited therein. Independent Claim 48 recites, *inter alia*, “a cap including an inner surface, the inner surface retains the cap on the body through an interference fit with the notch.” According to the Examiner, Jones discloses “a cap (12) having an inner surface (19) that retains the cap (12) on the body (11) through an interference fit.” For the reasons that follow, Applicants respectfully contend that Jones does not show or disclose a cap.

In Jones, reference numerals “12” and “19” refer to a washer and a rib. *See* Jones, Col. 2, ll. 76-88. In Jones, the nut includes an integral sleeve “18” that extends downward and passes through the washer (12). *See* Jones, Col. 2, ll. 81-85. Thereafter, the integral sleeve “18” is turned out to engage behind the inwardly directed rib “19” of the washer “12.” Thereby, the washer “12” is captured on the nut.

Plainly, the “washer” of Jones is not a “cap” as recited in the claims. Therefore, for at least this reason, Applicants respectfully submit that Claim 48 is allowable and that the Examiner’s 35 U.S.C. § 102(b) rejection should be withdrawn. Because Claims 49-54, 56,

and 57 depend from claim 48, they are allowable as well for at least this reason. Accordingly, Applicants respectfully request that the 35 U.S.C. § 102(b) rejections of Claim 49-54, 56, and 57 be withdrawn as well.

D. Claims 58, 60, 62, and 67-69 are patentable in view of Elastic Stop Nut.

Claims 58, 60, 62, and 67-69 stand rejected under 35 U.S.C. § 103(a). The Examiner alleges that Claims 58, 60, 62, and 67-69 are unpatentable over Elastic Stop Nut. Applicants respectfully disagree and request that the Examiner's rejection be withdrawn.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Claims 58, 60, and 62 recite, *inter alia*, "the cap includes a stainless steel..." According to the Examiner: "While the reference appears silent as to 'stainless steel' as a material choice for the cap, it would be readily appreciated by those of ordinary skill in the art to use such a material, since caps are generally designed to be robust to the elements." Applicants respectfully disagree and request that the Examiner's rejection be withdrawn.

Applicants respectfully point out that the preferred embodiment of the cap in Elastic Stop Nut is formed from nylon. See Elastic Stop Nut, Col. 4, ll. 66-70. Elastic Stop Nut discloses that "other thermoplastic and thermosetting plastic materials may also be utilized. See Elastic Stop Nut, Col. 4, ll. 86-90. However, clearly, Elastic Stop Nut fails to disclose a cap that includes a stainless steel.

In fact, Elastic Stop Nut expressly teaches away from the Examiner's proposed modification. Elastic Stop Nut states: "it has been found that in the previous type of construction [metal cap], corrosion may occur due to electrolytic or other corrosive influence at the joint between the body and cap of a metal-capped nut." Elastic Stop Nut, Col. 5, ll. 31-35. As such, Elastic Stop Nut teaches away from the Examiner's proposed modification. For at least this reason, all claim limitations are not taught by Elastic Stop Nut. Accordingly,

Applicants request that the Examiner's rejection of Claims 58, 60, and 62 be withdrawn. Because Claims 67-69 depend from Claims 58, 60, and 62, Applicants request that the Examiner's rejection of Claims 67-69 be withdrawn.

Independent Claims 58, 60, and 62 recite, *inter alia*, "the annular bearing surface on the body is spherically convex in shape." Applicants respectfully point out that, in Elastic Stop Nut, the bearing surface of the body (10) is in a generally flat shape. See Elastic Stop Nut, Fig. 5. As such, one of ordinary skill in the art would recognize that Elastic Stop Nut fails to teach or suggest all the elements of Claims 58, 60, and 62. For at least this reason, Applicants request that the Examiner's rejection be withdrawn. Because Claims 67-69 depend from Claims 58, 60, and 62, Applicants request that the Examiner's rejection of Claims 67-69 be withdrawn. For at least these reasons, Applicants request that the Examiner's rejections be withdrawn.

IX. CONCLUSION

In view of the above, it is believed that Claims 21-42 are allowable. It is therefore respectfully requested that the Board withdrawn the rejections of Claims 21-42 and that the present application issue as early as possible.

Respectfully Submitted,

Dated: March, 17 2008

By: D.A.A.

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CLAIMS

Claims 1-47 (canceled)

Claim 48 A fastener assembly, comprising:

- a) a body including:
 - i) a torque transmitter;
 - ii) a thread;
 - iii) a retaining surface; and
 - iv) a notch, the notch positioned on the retaining surface and located at one end of the body; and
- b) a cap including:
 - i) an inner surface, the inner surface retains the cap on the body through an interference fit with the notch.

Claim 49 The fastener assembly according to claim 48, wherein the notch is a right hand notch.

Claim 50 The fastener assembly according to claim 49, wherein the right hand notch has an angle of between 30 and 60 degrees.

Claim 51 The fastener assembly according to claim 49, wherein the right hand notch is at a 45 degree angle.

Claim 52 The fastener assembly according to claim 48, wherein the notch is a left hand notch.

Claim 53 The fastener assembly according to claim 52, wherein the left hand notch is at an angle of between 30 and 60 degrees.

Claim 54 The fastener assembly according to claim 52, wherein the left hand notch is at a 45 degree angle.

Claim 55 The fastener assembly according to claim 48, further comprising a washer.

Claim 56 The fastener assembly according to claim 48, wherein the body is a nut.

Claim 57 The fastener assembly according to claim 48, wherein, the retaining surface includes a second surface that is generally cylindrical.

Claim 58 A fastener assembly, comprising:

- a) a body including a torque transmitter and an annular bearing surface;
- b) the torque transmitter is generally hexagonal in shape and provided with a groove;
- c) the groove, at least in part, retains a cap on the body;
- d) the cap includes a stainless steel material and is shaped according to the grooved body; and
- e) the annular bearing surface on the body is spherically convex in shape.

Claim 59 The fastener assembly according to claim 58, wherein the annular bearing surface is located adjacent to a generally cylindrical surface.

Claim 60 A fastener assembly, comprising:

- a) a body including a torque transmitter and an annular bearing surface;
- b) the torque transmitter includes a groove that, at least in part, retains a cap on the body;
- c) the cap includes a stainless steel material and is shaped according to the grooved body so that when the body is torqued an interference fit is achieved between the cap and the body; and
- d) the annular bearing surface on the body is spherically convex in shape.

Claim 61 The fastener assembly according to claim 60, wherein the annular bearing surface is located adjacent to a generally cylindrical surface.

Claim 62 A fastener assembly, comprising:

- a) a body including a torque transmitter and an annular bearing surface;
- b) the torque transmitter is generally hexagonal in shape and provided with a groove;
- c) the groove, at least in part, retains a cap on the body;
- d) the cap includes a stainless steel material and is shaped, at least in part, to fit within the groove on the body; and
- e) the annular bearing surface on the body is spherically convex in shape.

Claim 63 The fastener assembly according to claim 62, wherein the annular bearing surface is located adjacent to a generally cylindrical surface.

Claim 64-66 (Canceled)

Claim 67 The fastener assembly according to claim 58, wherein the groove includes a curved surface.

Claim 68 The fastener assembly according to claim 60, wherein the groove includes a curved surface.

Claim 69 The fastener assembly according to claim 62, wherein the groove includes a curved surface.